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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case Nos. BK-S-06-10725 LBR
 Case Nos. BK-S-06-10726 LBR
 Case Nos. BK-S-06-10727 LBR
 Case Nos. BK-S-06-10728 LBR
 Case Nos. BK-S-06-10729 LBR
 Chapter 11

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 LLC,
 Debtor.

**AMENDED MOTION FOR AUTHORITY,
 SUBJECT TO ADVANCE APPROVAL BY
 NEVADA MORTGAGE LENDING
 DIVISION, FOR FERTITTA
 ENTERPRISES OR ITS AFFILIATE TO
 PROVIDE AN ADDITIONAL ADVANCE
 FOR THE RIO RANCHO EXECUTIVE
 PLAZA LOAN SERVICED BY DEBTOR
 USA COMMERCIAL MORTGAGE
 COMPANY [AFFECTS DEBTOR USA
 COMMERCIAL MORTGAGE COMPANY
 AND DEBTOR USA CAPITAL FIRST
 TRUST DEED FUND, LLC]**

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☒ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Date of Hearing: OST Requested
 Time of Hearing: OST Requested

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1 Debtors in Possession USA COMMERCIAL MORTGAGE COMPANY ("USACM") and
2 USA FIRST TRUST DEED FUND, LLC ("First Trust Deed Fund") (collectively the "Debtors"),
3 by and through their counsel Lenard E. Schwartzer, Esq. of the Schwartzer & McPherson Law
4 Firm, filed on August 2, 2006, their "Motion for Authority, Subject to Advance Approval by
5 Nevada Mortgage Lending Division, for Fertitta Enterprises or its Affiliate to Provide an
6 Additional Advance for the Rio Rancho Executive Plaza Loan Serviced by Debtor USA
7 Commercial Mortgage Company (the "Motion"). The Debtors hereby file this Amended Motion
8 (the "Amended Motion") to submit to the Court the attached Amended Summary Term Sheet
9 outlining the revised terms of the Fertitta Offer outlined in the Motion (such Amended Summary
10 Term Sheet being attached hereto as Amended Exhibit "A"), such revised Fertitta Offer providing
11 as follows:

12 1. As outlined in the Motion, Fertitta Enterprises or an affiliate of Fertitta Enterprises
13 ("Fertitta") has offered, subject to the advance approval of the Nevada Mortgage Lending
14 Division, to make an additional advance of \$3,773,000 on the Rio Rancho Loan, which would
15 increase the Loan Amount on the Rio Rancho Loan from \$2,250,000 to \$6,023,000. Paragraph 15
16 of the Motion states the terms and conditions of the Fertitta offer (the "Fertitta Offer") to make the
17 Additional Advance (which is subject to the advance approval of the Division, as outlined above).
18 As more fully outlined in the Amended Summary Term Sheet of Fertitta attached hereto as
19 Amended Exhibit "A," Fertitta has amended the Fertitta Offer to provide that Fertitta is no longer
20 requiring that the Debtors obtain the written consent in writing of all of the current Direct Lenders
21 to the Additional Advance. Instead, the approval of the Direct Lenders to the Additional Advance
22 is being sought pursuant to Section 2(e) of the Loan Servicing Agreement, which provides that
23 Debtor USACM may not permit any modification to any Loan that would change the outstanding
24 principal amount of the Loan without the Direct Lenders' prior consent; provided, however, that if
25 any Direct Lender fails to grant or deny its consent within three (e) business days after notice from
26 Debtor USACM, such Direct Lender shall be deemed to have conclusively given its consent.

27 2. It is also the Debtors' understanding that with respect to the equity participation
28 outlined in the Fertitta Offer that will be paid to the participants in the Additional Advance, that all

participants in the Additional Advance will receive from, or participate in the greater of \$400,000.00 or a 50% interest, in whatever interest in any success fee or equity participation currently held by Debtor USACM in the Rio Rancho Project, and that the participants in the Additional Advance will share this equity participation among themselves (and not with Debtor USACM) on a proportionate basis, based upon their respective funding participations in the total Additional Advance of \$3,773,000.00.

CONCLUSION

The Debtors request that the Motion, as amended by this Amended Motion, be granted, and that the Court authorize Debtor USACM (after the advance approval of the Nevada Mortgage Lending Division is given) to take the actions outlined above to modify the Loan Documents for the Rio Rancho Loan to provide for the Additional Advance with respect to the Rio Rancho Loan, and to otherwise implement the terms of the amended Fertitta Offer as outlined in the Amended Exhibit "A" to this Amended Motion, and that the Court authorize Debtor First Trust Deed Fund to consent to the Additional Advance, based upon the Debtors' business judgments that these actions are in the best interests of all concerned parties. The Debtors also request that the automatic 10 day stay under Bankruptcy Rule 6004(g) not apply to any Order granting the Amended Motion, and that such Order be effective immediately upon entry of such Order.

DATED: August 3, 2006.

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1 **AMENDED EXHIBIT “A” TO MOTION**

2
3 **Amended Fertitta Offer Term Sheet**

4 See Attached

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